

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|-------------------------------------|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Olga Bentin | Team: Squad #4 | CCRB Case #: 201708784 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Saturday, 10/21/2017 11:40 PM | Location of Incident: [REDACTED] | Precinct: 73 | 18 Mo. SOL 4/21/2019 | EO SOL 4/21/2019 | |
| Date/Time CV Reported Tue, 10/24/2017 11:16 AM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Tue, 10/24/2017 11:16 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

| Witness(es) | Home Address |
|-------------|--------------|
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|---------------------|--------|--------|---------|
| 1. SGT David Grieco | 03830 | 940216 | INT CIS |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|----------------------------|-----------|--------|----------|
| 1. POM Frank Ryan | 21262 | 952201 | PSA 9 |
| 2. POM Christophe Desimone | 06317 | 958495 | PSA 2 |
| 3. POM Jason Gammello | 31832 | 954842 | PSA 2 |
| 4. POM Michael Wallace | 579 | 955649 | PSA 2 |

| Officer(s) | Allegation | Investigator Recommendation |
|--------------------|--|-----------------------------|
| A.SGT David Grieco | Abuse: Sergeant David Grieco entered § 87(2)(b) in Brooklyn. | [REDACTED] |
| B.SGT David Grieco | Abuse: Sergeant David Grieco threatened to arrest § 87(2)(b) | [REDACTED] |

Case Summary

On October 24, 2017, § 87(2)(b) contacted the CCRB by phone and filed this complaint on behalf of his mother, § 87(2)(b). On October 27, 2017, a duplicate of this complaint was received from IAB, which § 87(2)(b) filed with the IAB Command Center on October 22, 2017.

On October 21, 2017, at approximately 11:40 p.m., Sgt. David Grieco, currently assigned to the Intelligence Criminal Section, along with several other officers, identified by the investigation as PO Christopher Desimone and PO Jason Gammello, of PSA 2, entered § 87(2)(b) apartment, located at § 87(2)(b) in Brooklyn (**Allegation A: Abuse of Authority, § 87(2)(g)**). Sgt. Grieco allegedly threatened to arrest § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(b) was not arrested as a result of this incident, but she was issued a summons for unlawful possession of marijuana (BR 13).

This complaint received media coverage (BR 02). Between February 1, 2018, and July 22, 2019, this complaint was on DA Hold.

There is no video evidence for this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant David Grieco entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Sergeant David Grieco threatened to arrest § 87(2)(b)

It is undisputed that § 87(2)(b) allowed Sgt. Grieco to enter her apartment. It is disputed whether Sgt. Grieco threatened to arrest § 87(2)(b).

The investigation determined the following facts: At the time of the incident, § 87(2)(b) resided in a three-bedroom apartment on the second floor of a three-story NYCHA building, known as § 87(2)(b). She resided with her § 87(2)(b)-year-old daughter, Ajanyah § 87(2)(b) her adult daughter, § 87(2)(b) her § 87(2)(b)-year-old granddaughter, § 87(2)(b) and her adult son, § 87(2)(b). Upon entering § 87(2)(b) apartment, there is a living room to the right and a kitchen to the left. To the right of the kitchen, is § 87(2)(b) bedroom and a bathroom is next to it. Upon passing the kitchen, there is a hallway that leads to § 87(2)(b)'s bedroom, and to the right is § 87(2)(b) bedroom. On Saturday, October 21, 2017, at approximately 11:40 p.m., Sgt. Grieco, PO Desimone, and PO Gammello arrived at § 87(2)(b) apartment looking for § 87(2)(b). § 87(2)(b) was in the apartment with § 87(2)(b)-year-old § 87(2)(b) who was asleep in § 87(2)(b)'s bedroom. There was no one else in the apartment.

§ 87(2)(b) (BR 01) stated that she opened the door and Sgt. Grieco asked if § 87(2)(b) was in the apartment. § 87(2)(b) said no. Sgt. Grieco then asked § 87(2)(b) if they could enter to check for themselves. § 87(2)(b) replied something to the effect of "No problem. I have nothing to hide." § 87(2)(b) then opened the door wide, allowing the officers to enter. The officers walked into the apartment and looked around § 87(2)(b)'s room first. They visually inspected the area and did not touch anything. They then walked into § 87(2)(b) room and looked around as well. The officers then went to § 87(2)(b) bedroom. § 87(2)(b) waited in the kitchen and did not follow the officers. The officers spent more time in § 87(2)(b) room. When Sgt. Grieco returned, he asked § 87(2)(b) to call § 87(2)(b). § 87(2)(b) called § 87(2)(b) and § 87(2)(b) asked what happened. § 87(2)(b) told § 87(2)(b) that she did not know and then handed the phone to Sgt. Grieco. § 87(2)(b) did not hear the conversation between Sgt. Grieco

and § 87(2)(b) but it ended abruptly, because § 87(2)(b) hung up the phone. Sgt. Grieco asked § 87(2)(b) where § 87(2)(b) was. § 87(2)(b) said that she did not know. § 87(2)(b) called § 87(2)(b) several times, but he did not respond. Sgt. Grieco said to § 87(2)(b) several times throughout the entire incident, “If your son is not going to come, I am going to arrest you.” § 87(2)(b) replied to Sgt. Grieco, “Okay, you can do what you have to do.”

On Sunday, October 22, 2017, at approximately 12:15 a.m., § 87(2)(b) returned home. Sgt. Grieco asked § 87(2)(b) and § 87(2)(b) if they had another place to stay overnight. § 87(2)(b) said that she and her daughter were not going to leave. Sgt. Grieco allowed § 87(2)(b) and her daughter to stay, but said that they would have to sleep in the living room. § 87(2)(b) did not know what was going on and did not ask Sgt. Grieco to explain. After § 87(2)(b) and § 87(2)(b) settled on the sofa, Sgt. Grieco walked up to a dresser in the living room by the window, picked up two “marijuana roaches” – marijuana cigarettes – from an ash tray, and placed them in the plastic bag. § 87(2)(b) did not see what Sgt. Grieco did with the plastic bag, but believed that he took it with him. Before Sgt. Grieco left, § 87(2)(b) heard him instruct two uniformed officers, who arrived at some later point, not to allow anyone in the rear bedrooms. Shortly afterwards, Sgt. Grieco left.

The uniformed officers remained in § 87(2)(b) apartment through the night. At approximately 10 a.m., on October 22, 2017, § 87(2)(b) and § 87(2)(b) exited the apartment to have breakfast with § 87(2)(b) other son, § 87(2)(b) who arrived from Philadelphia. The uniformed officers exited the apartment and remained in the hallway of the building by the front door of § 87(2)(b) apartment.

At approximately 3:30 p.m., PO Desimone returned and approached § 87(2)(b) who was sitting on a bench in front of the apartment building. PO Desimone asked § 87(2)(b) if they could go to her apartment to speak privately, and she agreed. While in the apartment, PO Desimone asked § 87(2)(b) to sign a document allowing the officers to search § 87(2)(b) room. § 87(2)(b) refused to sign anything. PO Desimone then took the “marijuana roaches” from the dresser in the living room and issued § 87(2)(b) a summons for unlawful possession of marijuana (BR 13).

§ 87(2)(b) did not allow the agency to interview § 87(2)(b) or § 87(2)(b) (BR 03) stated in his telephone statement that he arrived when the officers were already in the apartment. § 87(2)(b) never entered § 87(2)(b) apartment and did not see or hear what happened inside.

Sgt. Grieco (BR 04) testified that during one of the debriefing meetings at the PSA 2 stationhouse, on an unspecified date, he was informed that § 87(2)(b) had guns and kept them in a bag in his room. Sgt. Grieco conducted several checks for § 87(2)(b) and learned that he resided at the incident location. Sgt. Grieco then performed additional searches for the residence, as part of standard procedure, to see if there were any active warrants or I-cards issued for any other individual residing at the incident location. Sgt. Grieco learned that § 87(2)(b) had an active probable cause to arrest I-card for a domestic incident. The I-card listed § 87(2)(b)'s address as the incident location. Sgt. Grieco did not remember when the I-card was issued or by whom it was issued. § 87(2)(b) allowed him, PO Desimone, and PO Gammello to enter her apartment by saying something to the effect of, “Okay, come in.” Sgt. Grieco did not document § 87(2)(b) consent anywhere. § 87(2)(b) did not revoke her consent or asked the officers to leave.

After Sgt. Grieco entered the apartment, he showed § 87(2)(b) the I-card, which contained § 87(2)(b)'s photograph, and the accompanying complaint report. Sgt. Grieco told

§ 87(2)(b) that he was looking for § 87(2)(b). Sgt. Grieco did not remember if he told § 87(2)(b) that he was also looking for § 87(2)(b) but later testified that they spoke to § 87(2)(b) about § 87(2)(b) at some point during the incident. While looking around the rooms, Sgt. Grieco found a marijuana cigarette in an ash tray in the living room. The marijuana cigarette was in plain view. When Sgt. Grieco, PO Desimone, and PO Gammello entered § 87(2)(b) room, they saw a small quantity of marijuana, some drug paraphernalia, and a large credit card forging device, called an “embossing machine,” in plain view. Sgt. Grieco did not remember specifically where everything was found, but the embossing machine was laying on the floor.

Sgt. Grieco ordered PO Desimone and PO Gammello to freeze the location and obtain an “emergency” search warrant for the incident location. Sgt. Grieco then went to the kitchen and spoke to § 87(2)(b) about their discovery. Sgt. Grieco did not remember what exactly he said to her, but acknowledged asking her to call § 87(2)(b). Sgt. Grieco introduced himself to § 87(2)(b) and asked him to come home. § 87(2)(b) disengaged the call. Sgt. Grieco did not remember saying to § 87(2)(b) “If your son is not going to come. I am going to arrest you.” Sgt. Grieco did not remember threatening to arrest § 87(2)(b) and her daughters were free to move around the apartment, but they could not enter § 87(2)(b) room because it was secured pending a search warrant. § 87(2)(b) and her daughters were free to leave the apartment at any point. § 87(2)(b) decided not to leave the apartment and slept on the sofa in the living room.

On Sunday, at approximately 2:57 a.m., on October 22, 2017, Sgt. Grieco ended his tour. In the afternoon, on October 22, 2017, Sgt. Grieco received a call from PO Desimone who said that the application for the search warrant was denied, because the District Attorney’s Office called and spoke to § 87(2)(b) and § 87(2)(b) stated that she never provided the officers consent to enter. Sgt. Grieco instructed PO Desimone to issue § 87(2)(b) a summons for criminal possession of marijuana for the marijuana observed in plain view in the living room. PO Desimone confiscated and vouchered the embossing machine, marijuana, and drug paraphernalia from § 87(2)(b) room, and the marijuana cigarette from the living room.

On March 23, 2017, § 87(2)(b) filed a complaint report against § 87(2)(b) for assaulting her (BR 05), which was completed by PO Arturo Delgado from PSA 2.

On March 25, 2017 (BR 06), probable cause to arrest I-card #§ 87(2)(b) was issued for § 87(2)(b) by Det. James Donoghue for the above complaint, which listed her residence as § 87(2)(b).

According to PO Desimone’s memo book (BR 07), at approximately 12:40 a.m. on October 22, 2017, the officers arrived at § 87(2)(b) looking for § 87(2)(b). At approximately 12:42 a.m., § 87(2)(b) “gave permission to enter” the apartment to look for § 87(2)(b). PO Desimone noted that upon entry, there was a strong odor of marijuana in the apartment. While in the apartment, PO Desimone observed a “a crack pipe (glass) containing crack residue, credit card embosser on the floor, and drug paraphernalia throughout bedroom.” Sgt. Grieco ordered to freeze the location pending search warrant. At approximately 1:15 a.m., § 87(2)(b) stated, “They came looking for § 87(2)(b),” and, “He owns a quarter; breaks up 5 bags, sells that, smokes the rest. § 87(2)(b) confirmed that the room containing drug paraphernalia was § 87(2)(b), who goes by § 87(2)(b).” At approximately 2:15 a.m., PO Desimone was relieved by PO Michael Wallace and PO Eliot Belilos. At approximately 2:35 a.m., PO Desimone ended his tour. At approximately 10:00 a.m., PO returned to PSA 2 to work on obtaining the search warrant with ADA Snyder. At approximately 2:30 p.m., the search warrant was not approved by ADA Gleason. At approximately 3:00 p.m., PO

Desimone returned to § 87(2)(b) to 'voucher evidence in plain view/issued summons to § 87(2)(b) for UPM #§ 87(2)(b)

PO Desimone vouchered the following property (BR 09): pipe with crack cocaine residue, four small baggies containing marijuana residue, eleven marijuana cigarettes (field tested positive), and DXR credit card forging device.

The courts have held that officers may conduct a warrantless entry and search of a residence when provided with voluntary consent. Consent must be free and an unconstrained choice. People v. Gonzalez, 39 N.Y. 2d 122 (1976) (BR 08)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB interview to which § 87(2)(b) has been a party (BR 10).
- Sergeant Grieco has been a member of service for thirteen years and has been a subject in 35 other closed and pending CCRB complaints and 82 other closed and pending allegations, of which eight were substantiated:
 - 201111996 involved substantiated allegations of abuse of authority (premises entered and/or searched) and failure to prepare a memo book entry. The Board recommended command discipline B and instructions and the NYPD imposed instructions.
 - 201207718 involved a substantiated allegation of abuse of authority (stop). The Board recommended charges and the NYPD imposed command discipline (one vacation day).
 - 201405351 involved substantiated allegations of abuse of authority (premises entered and/or searched) § 87(4-b), § 87(2)(g). The Board recommended charges and the NYPD imposed no penalty.
 - 201800398 involved substantiated allegations of abuse of authority (vehicle stop, vehicle search, threat of summons, search of person), § 87(4-b), § 87(2)(g). The Board recommended charges and the NYPD has not yet imposed discipline.
 - 201901422 involved a substantiated allegation of abuse of authority (threat of fore). The Board recommended Formalized Training and the NYPD has not yet imposed discipline.
 - 201808904 involves allegations of abuse of authority (threat of arrest and question). The complaint is pending investigation.
 - 201901219 involves allegations of abuse of authority (premises entered and/or searched, and property damage). The complaint is pending investigation.
 - 201903162 involves allegations of abuse of authority (premises entered and searched). The complaint is pending investigation.
 - 201905362 involves an allegation of abuse of authority (premises entered). The complaint is pending investigation.

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- 201903377 involves allegations of abuse of authority (entry of premises and search of premises). The complaint is pending investigation.
- 201905362 involves an allegation of abuse of authority (entry of premises). The complaint is pending investigation.
- 201906069 involves allegations of abuse of authority (stop and interference with recording). The complaint is pending investigation.
- 201908427 involves allegations of abuse of authority (premises entered and/or searched, property damage, and threat of arrest), and offensive language (gender). The case is pending investigation.
- 201908448 involves an allegation of physical force (use of nonlethal restraining device). The complaint is pending investigation.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York on her own behalf and on behalf of her daughter, § 87(2)(b) claiming false arrest, false imprisonment, violation of privacy, deprivation of due process, intentional infliction of emotional distress, negligent infliction of emotional distress, mental anguish, shame, humiliation, and indignity, and seeking \$15,000,000.00 as redress (BR 11).
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 4

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| Investigator: | _____ Signature | _____ Print Title & Name | _____ Date |
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| Squad Leader: | _____ Signature | _____ Print Title & Name | _____ Date |
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| Reviewer: | _____ Signature | _____ Print Title & Name | _____ Date |
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